



**Amnesty International Testimony  
India's Unfinished Agenda: Equality and Justice for 200 Million Victims of the  
Caste System  
Before the  
Subcommittee on Africa, Human Rights and International Operations  
Committee on International Relations  
United States House of Representatives  
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Thank you Mr. Chairman, and distinguished members of this committee. Amnesty International is pleased to testify at this hearing. We are here today to discuss a great injustice, an injustice based on discrimination not on the sole basis of colour, or gender, but on the basis of descent. In India today, nearly 200 million people known as *dalits*, (also known as "untouchables," or "scheduled castes,") are faced with socioeconomic discrimination, abuse, torture, and even death simply because of the family into which they were born.

This arrangement has been called India's "hidden apartheid", and rightfully so, for despite specific legal provisions against such discrimination in the Indian constitution and subsequent laws, intense persecution remains. The groundwork exists for India to institute lasting and substantive change. The Indian government should take meaningful steps to enforce existing legislation, and to explore other avenues of addressing this sad situation. The United States, as one of India's trading partners and allies, must encourage India to take firm action.

**Who Are Dalits?**

India's caste system involves a social hierarchy and is often understood to be a feature of Hinduism. Individuals are considered to be born into a particular caste and remain in that caste throughout their lives. Broad caste categories (*varnas*) separate caste groups according to occupation (although mobility between occupations does not lead to changes in caste identity). Outside these caste categories are the "untouchables", now commonly known as *dalits* whose occupations -- sweepers, tanners, sanitation workers, etc -- were viewed as "polluting" the community.

Untouchability of *dalits* continues to be practiced in India in many forms, reinforcing an iniquitous social hierarchy and allowing for the continuing disempowerment and humiliation of millions of people.

### **How are Dalits Discriminated Against?**

Localities housing *dalits* are often segregated from those housing non-*dalits*, a segregation which often extends to the provision of separate wells, eating places and temples and restrictions on the use of land to defecate. Many are agricultural laborers -- estimates suggest that at least two thirds of the bonded laborers in India are *dalits* -- while *dalit* women, and often children, dominate certain spheres of work, such as civic sanitation, scavenging and leatherwork (including the flaying and tanning of carcasses).

In most parts of the country, *dalits* have a proportionately small share in agricultural landholding, despite the allocation of government land. *Dalits* also do not have proper access to schools which accounts for high illiteracy rates and serves as a basis for increased discrimination. Additionally, *dalits* are routinely subjected to beatings, mutilation, murder, rape, and destruction of property by members of the upper-castes and the police, a culture of impunity ensures that most of the perpetrators go unpunished.

### **Abuses Committed Against Dalits**

Abuses against *dalits* are numerous and take many different forms, they include (but are not limited to):

- Socioeconomic discrimination
- Beatings, slashings, and other forms of torture
- Arson – the burning of *dalit* communities
- Violence against women
  - o Rape, gang rape, and the parading of women through the streets naked
    - As a form of punishment
    - As the right of the upper-caste male
    - To punish or embarrass the woman's family
  - o Beating and torture of women
- Summary execution, many times by burning alive
- Bonded labor
- Denial of rights, especially land rights
- Police abuses against *dalits*, custodial abuse

### **Efforts to address Abuses against Dalits**

Article 17 of the Constitution of India states that the practice of "untouchability" is abolished and forbidden. Despite this prohibition, "untouchability" continues to be practised in India in many forms. Additionally, lower caste groups are ensured reservations in political bodies as well as public sector employment. Various other protective mechanisms have been put in place by the state to ensure rights for *dalits*. Legislation to criminalize abuses against Scheduled Castes and Scheduled Tribes began with the 1955 Protection of Civil Rights Act.

This Act was enhanced by the enactment of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in 1989 and Rules of 1995 which extended the

scope of abuses which were criminalized and provided for graver penalties. Within the latter Act there are penalties for police acting negligently. Other extant legislation includes protection of the land rights of scheduled castes as well as legislation outlawing traditional abusive practices including "manual scavenging" (the manual disposal of human waste by *dalits*). However, most of these measures are not enforced.

### **Amnesty International's Concerns**

Amnesty International recognizes the huge challenge that the socio-economic situation in India presents for the state and the country as a whole. However with legislation designed to safeguard the rights of *dalits* in existence, and with constitutional guarantees for the abolition of "untouchability" and prohibition of discrimination on the basis of caste, Amnesty International believes the Government of India must respond to abuses against *dalits* with a powerful message -- not just through rhetoric but in practice -- that those who strive for equality will not be punished but that the state will find ways of supporting their initiatives.

Amnesty International is especially concerned about the following: police action, denial of justice, impunity, torture, violence against women, persecution of human rights defenders, *dalits* under sentence of death, and violence against pro-*dalit* and *dalit* activists.

### **Police: A Solution or a Problem?**

Amnesty International believes that the current policing structure encourages discrimination by allowing police to act at the behest of particular powerful groups rather than to act lawfully in the interests of society as a whole and by encouraging arrest on the basis of suspicion rather than on investigation and evidence. In practice also, the failure to prosecute many unlawful activities of the police and the problems of victims in accessing justice mean that discriminatory practices are perpetuated.

The prevalence of political interference in policing by powerful individuals and groups, ensures that the most socially and economically weak members of society are most vulnerable to abuses including torture and ill-treatment by police at the behest of those groups. Victims have nowhere to turn but to the police to enforce laws designed to end discrimination. But the police are not equipped or willing to do so. It is an enduring problem which can no longer be overlooked.

### **Hurdles to Dalits Seeking Justice**

In practice, there are numerous hurdles to *dalits* seeking justice. Section 21 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act imposes positive duties on state and central governments to ensure proper implementation of the Act. These include the provision of legal aid and travel expenses for witnesses and victims attending trials. It states that many offences are "non-bailable" and do not allow for anticipatory bail, therefore protecting victims from possible reprisals. However, the reality has been very different. In many cases cognizance is not taken of abuses. When cases are reported they are often not filed under the Act as police are under pressure from the perpetrators who are aware of the graver penalties for offences under the Act.

Furthermore, *dalit* activists are frequently charged under the National Security Act, the Indian Explosives Act and sections of the Indian Penal Code. There have also been several cases of police harassment of NGO activists, ranging from periodic police visits, to arrest and charges of aiding and abetting in various crimes or interfering in police investigations. These findings were borne out in discussions which Amnesty International held with human rights defenders during 1999.

### **Impunity: An Example**

Gaje Singh, a 39-year-old tailor and member of the *dalit* community in Nayagaon, Ropar District, was allegedly assaulted by police on October 17, 2001. Several officers of the 37 Battalion of the national Central Reserve Police Force (CRPF) attacked the village in reprisal after an officer was allegedly beaten up by Gaje Singh and his neighbors in a personal dispute over the money charged for some work. After meeting resistance, CRPF officers in uniform and armed with service weapons returned to the village at about 8pm, ransacked several shops and beat Gaje Singh with iron rods, rifle butts and sticks. A handicapped shopkeeper, Darshan Singh, and his 78-year-old mother, Satpal Kaur, were also beaten with iron rods. Gaje Singh suffered serious injuries to his head, chest and feet. Darshan Singh's right arm was broken and his mother suffered injuries to her back. Three officers of the regular police who were in the vicinity did not intervene during the attack, nor did any police officer help the injured.

Gaje Singh filed a complaint at Nayagaon police station and the Punjab police registered a criminal case for minor offences against four CRPF officers. However, no arrests were made. To initiate criminal prosecution against officers of a central security force, permission from the Union government needs to be obtained, but Punjab Police did not take any steps to seek such permission. A senior CRPF officer assured a lawyers organization monitoring the case that disciplinary action would be taken against the officers and that they would be asked to pay the victims medical expenses. He also suspended three of the officers involved in the attack and acknowledged that it was a blatant case of "police highhandedness". Police officers subsequently tried to convince the victims to settle the matter out of court by offering them some money, but the offer was reportedly not accepted. No formal charges were brought against the officers concerned and the fate of the disciplinary action initiated by the CRPF is unknown. The victims are finding it difficult to obtain the money needed to take their complaint further to the Punjab Human Rights Commission and are under pressure from other villagers to drop legal proceedings.

### **Torture and Violent Abuse**

Amnesty International is concerned that *dalits* are particularly vulnerable to torture and ill-treatment and that there is evidence of discrimination within the police system. Cruel, inhuman or degrading treatment sometimes amounting to torture is particularly common in this context. Physical and verbal abuse and intimidation of individuals by police on the basis of their caste, ethnicity, religion or gender is commonplace not only for detainees but also for those who visit the police station to make a complaint.

Amnesty International is also aware of many incidents in which police have reportedly beaten members of the *dalit* community, including women, following requests by members of upper caste communities that they be punished. *Dalit* women are particularly vulnerable to sexual torture by law enforcement officials, often as a means of

punishing male relatives or "teaching their community a lesson". The failure of police to register complaints of violence against *dalits* or *adivasis* (tribal groups) or to pursue investigations under legislation specially designed to protect members of these groups -- the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989 -- has also been well documented.

Torture and abuse against *dalits* by upper-caste members are also extremely common. For example, in May 1999 it was reported that a young widow named Chunni was tied to a tree and brutally beaten on the orders of the *panchayat* (local village council, which included seven women) for failing to prevent the deaths of livestock in Amara village of Banda district in Uttar Pradesh. She was reportedly hung upside down, her genitals stuffed with chili powder and thrashed with lathis (batons). She died of her injuries. Villagers told police she had committed suicide. All 13 *panchayat* members were arrested and charged with murder.

In another incident, an elderly *dalit* man recalled how his wife, daughter and two sons were burned alive, along with three others, when members of a dominant Hindu upper caste set fire to three huts belonging to *dalit* families. His eldest son, the first graduate from the village, also had been murdered two years earlier by caste Hindus. All the *dalits* in the village had fled and none wanted to return home as they believed the police would not protect them. Examples of this nature abound, it is estimated that a *dalit* woman is raped every sixty hours and a *dalit* is murdered every nine days.

### **Violence Against Dalit Women: A Double Discrimination**

Amnesty International saw evidence of the intersection of gender inequality and other forms of discrimination throughout its visit to areas of Uttar Pradesh and Rajasthan. The concept of gender equality continues to be alien to many communities and many state institutions particularly at the local level. In the areas of Uttar Pradesh and Rajasthan visited, caste and land rights are crucial factors which impact on political, social and economic relationships.

In Uttar Pradesh political parties representing *dalit* and lower-caste communities have played a role in recent years in empowering some of these groups in certain areas. While it is difficult to generalize about a situation in which caste groups and relationships between them are extremely complex, groups such as *dalits*, *adivasis* "backward castes" and others continue to be most socially and economically vulnerable as a result of lack of access to land ownership and meaningful political participation.

Estimates suggest that at least two thirds of the bonded laborers in India are *dalits* and that over half the *dalit* workforce are landless agricultural laborers. Sixty-six per cent of all women agricultural laborers are *dalits* earning between Rs.8-25 [\$0.17-0.54] per day.

Placed within the context of both gender and caste discrimination, more often than not inhabiting rural areas of severe impoverishment, *dalit* women become an easy target for exploitation and violence. Given that women embody the concept of honor, violence against women becomes a symbolic gesture of exploitation and discrimination within *dalit* communities. Thus, sexual harassment by landowners, moneylenders and their hired thugs is common.

Rape, gang rape, parading of women through the streets naked, and beatings are common actions taken against women and girls by both the police and members of the upper-castes. Reasons for these practices vary from using violent means of punishment, to viewing sexual relations with *dalit* women as their caste right, to using sexual torture as a means of embarrassing and punishing the woman's family.

### **Violence Against Dalit Women: A Case Study**

Violence against women is also connected to many different issues of caste relations such as land rights. The story of Ram Chandra and his wife, Ramvathi, perfectly illustrates this fact. Ram Chandra, a *dalit* living in Munni Khera was married to Ramvathi and they owned a piece of land on which they had a house. Upper caste villagers were trying to take the land from them and Ram Chandra and Ramvathi had objected to this.

In September 1998, Ramvathi was gang-raped by five men. Higher caste villagers are believed to have raped her as a means of isolating her and her husband within the village and the *dalit* community because of the stigma attached to rape and to punish them for refusing to give up their land.

After the rape, Ram Chandra went to the Hassanganj police station to lodge a complaint. However, police refused to lodge a First Information Report (FIR). There are allegations that police took money from one of the accused. The couple were constantly threatened by influential people in the village and their house was attacked. Ram Chandra finally made an application to the Superintendent of Police of Unnao district concerning the rape and the failure of the police to lodge an FIR. However, despite the Superintendent of Police ordering that the incident should be investigated (no action was taken against police for refusing to lodge an FIR) local police again managed to ensure that the incident was not investigated. Finally under severe pressure, the couple moved to Ramvathi's parent's village some distance away.

They returned to the village on January 30, 1999, reportedly determined to reclaim their property. They were met by three men, who were soon joined by others, armed with sticks and axes. Ram Chandra sent his wife to the house, fearing violence. He was then beaten by around 17 men with sticks. His left leg and left hand were broken. When he started screaming, Ramvathi and several other women came to find out what was happening. Ram Chandra described what happened next:

*"They attacked my wife with stick, she fell down then and there. After that my wife came to me and laid over my body to save me, then they had beaten my wife with sticks and axes. She got deep injuries on the head and shoulder and her right hand and leg broken. [one of the attackers] put off all the clothes of my wife, raped her and inserted and pushed the stick in her private part".*

The attackers left Ramvathi for dead and ran away. Ram Chandra and his wife were taken to the district hospital where Ramvathi died the next morning.

When, on the next day, activists approached the Superintendent of Police about the incident, which had been reported in the media, he reportedly denied that the incident had occurred and said that the media had exaggerated the facts. Activists went to the village to investigate but villagers were too scared to speak about it. They found

Ramvathi's husband in the district hospital. He could only move his neck because he had been beaten so badly. He had not even been told that his wife had died.

Finally, many women don't approach police for fear of dishonor or that they will be dismissed or further abused. An activist working with *dalit* women in Uttar Pradesh estimated that only 5% of cases of violence against women are registered. Many *dalits* are not aware of their rights under special legislation designed to protect them, and it is rare for police to voluntarily inform them.

### **Persecution of Human Rights Defenders**

Human rights defenders from outside areas where caste-based abuses have occurred who attempt to highlight those abuses and put pressure on the authorities to take remedial action are sometimes themselves made the subject of harassment by the state. This has reportedly included banishment from particular areas under Section 10 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which provides for "removal of person likely to commit offence".

Amnesty International is concerned at apparent attempts by the state to limit the work of human rights defenders in internationalizing the issue of discrimination against *dalits*. The Government of India has explicitly stated that the issue of caste discrimination does not fall within the remit of the International Convention on the Elimination of All Forms of Racial Discrimination which India ratified in 1968. At the hearing of India's report to the Committee on the Elimination of All Forms of Racial Discrimination in September 1996, the Committee explicitly affirmed that "the situation of the scheduled castes and scheduled tribes falls within the scope of the Convention" and expressed great concern that India had failed to reconsider its position on this (CERD/C/304/Add.13).

### **Dalits and the Death Penalty: An Example**

Four *dalit* men were sentenced to death in 2002 in Bihar state. Their appeal was rejected in December that year, despite concerns that they had not received a fair trial. They were convicted in February 1992 for the killing of 35 members of an upper-caste armed group in Bihar state. They were convicted of a "terrorist act" under the now lapsed 1987 Terrorist and Disruptive Activities (Prevention) Act (TADA Act), which gave police sweeping powers to arrest and detain without trial under the Act's vague and imprecise provisions. It was used to arrest, among others, members of vulnerable groups. Amnesty International is concerned that the men's trial fell short of international fair trial standards.

### **Dalit Community Awareness and Activism**

One positive development has been the increased social awareness and activism among *dalit* communities. A growing awareness of rights amongst these communities, demands for social and political equality and an unwillingness not only to allow such abusive practices to continue but to be a silent witness to the apathy of the administration, has led many *dalits* and others to take active steps to defend those rights.

However, the growing assertion of *dalit* human rights which necessarily challenges existing power groups, be it landlords, employers or even so-called "backward castes",

has met with violent reaction in some quarters. In 1998, the *Times of India* reported that the annual report of the National Commission for Scheduled Castes and Scheduled Tribes which was presented to the President had referred to frequent caste clashes erupting in Uttar Pradesh, Bihar and Tamil Nadu, stating "Whenever the *Dalits* have tried to organise themselves or assert their rights, there has been a backlash from the feudal lords resulting in mass killings of the *Dalits*, gang rapes, looting and arson" *Times of India*, (Times of India, February 10, 1998).

## **Conclusion**

In conclusion, it is the responsibility of the Indian government to fully enact and apply its legal provisions against discrimination on the basis of caste and descent. It must take concrete action to reign in groups who discriminate against *dalits*, including the police. The culture of impunity must end, and the perpetrators must be brought to justice. Until India's "hidden apartheid" is truly and completely abolished, the world's largest democracy cannot hope to make truly substantive progress towards liberty for all.

## **Recommendations**

Amnesty International calls on the United States government to:

1. Encourage India to adopt the recommendations outlined above and use every opportunity to raise the problem of caste discrimination and violence both publicly—at international meetings, congressional hearings, and in press conferences—and privately, at Consultative Group meetings and in meetings with relevant officials.
2. Encourage American owned business in India to establish a quota system, similar to the Indian government's, which ensures the setting aside of jobs for qualified *dalits*, especially women.
3. U.S. government funded projects in India should also establish quotas to encourage the hiring *dalit* workers.

The U.S. government should instruct its officials at the World Bank and other similar institutions to ensure that funds allocated to projects in India are non-discriminatory and include a quota for *dalits*.

Amnesty International calls on the government of India to:

1. Take steps through public education and other means to ensure societal and attitudinal changes amongst the population towards the human rights of *dalits*. These should include incorporating changes in school curricula to create attitudes which would help combat violence against *dalits* and to guard against reinforcing caste stereotypes, and training teachers to ensure non-discriminatory approaches to education.
2. Adopt all appropriate measures, especially in the field of education, so as to instill values which will prevent caste-based violence and discrimination. These should include ensuring that schools provide a safe environment void of caste-based violence.
3. Place the elimination of caste-based violence on the agenda of *Panchayats* and other organs of government down to the lowest levels throughout the country. Ensure that knowledge of legal rights and various laws related to scheduled castes and scheduled tribes feature in any training program for newly elected



- Panchayat* members as well as *Sarpanches*, *Upsarpanches*, *Gram Sevaks* and others and involve non-governmental organizations in such training.
4. Invite the Special Rapporteur on Torture to investigate patterns of violence against *dalits*.
  5. Ensure implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules of 1995 and take action against officials who have failed to implement the Act and its Rules.
  6. Implement existing legal sanctions against police officers found responsible for illegal actions based on discrimination and initiate disciplinary action against police officers found to have acted in a discriminatory manner towards individuals.
  7. All police stations should hold and display in regional languages copies of relevant legislation enacted to protect certain vulnerable groups from violence and abuse.
  8. Incidents of torture and other human rights violations should be carefully monitored with a view to determining correlation of their occurrence with victims belonging to certain categories in society. Statistics should be published and steps taken to provide special protection on the basis of this information. Monitoring mechanisms should involve the statutory commissions established to protect particular groups in society as well as non-governmental bodies and individuals who come from or represent these groups in society.

Thank you for inviting Amnesty International to this important hearing.

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